

## REMARKS

Applicants respectfully request reconsideration of the present application.

### 1. Disposition of the Claims and Specification

Claims 1-7 are pending. Claims 1 and 2 are currently amended. Claims 8-22 are withdrawn. Support for the amendment to claims 1 and 2 may be found in the specification, for example, at page 1, lines 22-23 and lines 35-36; page 2, lines 3; and page 9, lines 18-23.

Because the foregoing amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested. The amendment to claims 1 and 2 is made at the suggestion of the Examiner in the Office Action (at page 4). Accordingly, Applicants believe that the amendments place the application in condition for allowance.

### 2. Claim Rejections – 35 U.S.C. § 112, first paragraph

Claims 1-7 are rejected under 35 U.S.C. § 112, first paragraph. Applicants respectfully request reconsideration and withdrawal of the rejection.

First, Applicants note that the Examiner agrees that the fragments, as presently claimed, “are adequately described.” Office Action at 3.

With respect to the claimed “variants”, the Examiner reasons that disclosure of “a single polypeptide and encoding polynucleotide” is not “adequately representative of a genus”, and thus, the specification does not describe “polynucleotides having at least 85% identity to SEQ ID NO: 2 or polynucleotides encoding polypeptides at least 95% identical to the protein of SEQ ID NO: 1.” The Examiner states that “inclusion of a functional limitation to the claims would provide adequate written description and obviate the rejection.” Office Action at 4.

Applicants respectfully disagree with the Examiner. However, to expedite prosecution, Applicants have amended claims 1 and 2 to recite a functional limitation as suggested by the Examiner. Support for the amendment to claims 1 and 2 may be found in

the specification, for example, at page 1, lines 22-23 and lines 35-36; page 2, lines 3; and page 9, lines 18-23.

3. **Conclusion**

Applicants believe that the present application is in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

It is acknowledged that the foregoing amendments are submitted after final rejection. However, because the amendments do not introduce new matter or raise new issues, and because the amendments either place the application in condition for allowance or at least in better condition for appeal, entry thereof by the Examiner is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

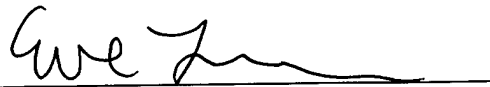
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

7/20/04

By



FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 945-6142  
Facsimile: (202) 672-5399

Eve L. Frank  
Attorney for Applicant  
Registration No. 46,785